



implied warranties. For this reason, this Court enters judgment in favor of Davis-Frost and against FCA on Counts I through IV.

2. In the alternative, to the extent this Court determines liability, if any, on Counts I through IV, this Court as a matter of law finds the express language of the Warranty limits FCA's recoverable damages to "reasonable costs associated with the application thereof not to exceed \$5,000 less the actual cost of material per railcar."
3. Further, in the alternative, to the extent this Court determines liability, if any, on Counts I through IV, as a matter of law, this Court finds Davis-Frost has proven FCA did not mitigate its damages and therefore FCA's recoverable damages cannot exceed \$1,159,611.
4. In Count V of FCA's Complaint for Violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, the Court finds the undisputed facts demonstrate FCA is barred from asserting this claim, has no standing under the Act and there is no evidence of any deceptive acts. Accordingly, as a matter of law, this Court enters judgment in favor of Davis-Frost and against FCA on Count V.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Norman K. Moon  
United States District Judge